

UNITED STATES DISTRICT COURT
DISTRICT OF NEW JERSEY

**AXSOME THERAPEUTICS, INC. and
ANTECIP BIOVENTURES II LLC,**

Plaintiffs,

v.

TEVA PHARMACEUTICALS, INC.

Defendant.

**Civil Action No. 2:23-cv-01695 (MEF-LDW)
Civil Action No. 2:23-cv-23142 (MEF-LDW)
(consolidated)**

(Filed Electronically)

STIPULATION AND [PROPOSED] ORDER

This stipulation is made by and between Plaintiffs Axsome Therapeutics, Inc. and Antecip Bioventures II LLC, (collectively, “Plaintiffs”) and Defendant Teva Pharmaceuticals, Inc. (“Teva” and together with Plaintiffs, “the parties”) in the above-captioned action (the “Action”).

WHEREAS, Teva has put Plaintiffs on notice that it intends to argue that the following eleven claim limitations of the asserted claims of U.S. Patent Nos. 10,780,064, 11,752,144, and 10,966,942, 11,717,518 (collectively, the “Asserted Patents”) are indefinite under 35 U.S.C. § 112:

Asserted Claim(s)	Term
’064 patent (claims 1-17 and 19-23)	“of Asian descent”
’064 patent (claim 2)	“of Japanese descent”
’064 patent (claim 3)	“of Chinese descent”
’064 patent (claim 4)	“of Korean descent”
’064 patent (claims 1-17 and 19-23)	“significantly greater reduction”
’942 patent (claims 1-14 and 16-20)	“male”
’144 patent (claims 1-14)	“history of drug abuse”
’144 patent (claims 1-14)	“wherein the human patient does not experience dissociation”

'144 patent (claims 3, 7, 10)	"wherein the human patient is not monitored . . . for dissociation"
'518 patent (claims 4-6, 18-23)	"limiting but not discontinuing"
'518 patent (claim 18)	"or a combination thereof"

WHEREAS, the parties agree, subject to the Court's approval, that the indefiniteness disputes in this matter will involve expert opinions and should be addressed during the merits phase of the case, notwithstanding that it may implicate related issues of claim interpretation.

NOW THEREFORE, Plaintiffs and Teva, by and through their respective undersigned counsel in this Action, and subject to the approval of the Court, stipulate as follows:

1. The exchange of preliminary proposed constructions and identification of evidence under L. Pat. R. 4.2 will include the terms that Teva has identified as being amenable to construction. The parties shall not be required to exchange preliminary proposed constructions or identify evidence under L. Pat. R. 4.2 for the eleven terms that Teva alleges are indefinite.
2. The indefiniteness arguments and presentation of supporting evidence are reserved for subsequent phases of this litigation as may otherwise be appropriate, including expert discovery, summary judgment, and/or trial.
3. Nothing herein limits rights Teva may otherwise have to argue the invalidity of the Asserted Patents with respect to indefiniteness.
4. Nothing herein limits rights Plaintiffs may otherwise have to dispute Teva's indefiniteness arguments.

IT IS SO ORDERED:

Dated: _____

Hon. Michael E. Farbiarz, U.S.D.J.

IT IS SO STIPULATED.

Dated: July 31, 2024

/s/ Charles M. Lizza

Charles M. Lizza
William C. Baton
Sarah A. Sullivan
SAUL EWING LLP
One Riverfront Plaza, Suite 1520
Newark, New Jersey 07102-5426
(973) 286-6700
clizza@saul.com

OF COUNSEL:

F. Dominic Cerrito
Eric C. Stops
Evangeline Shih
Catherine T. Mattes
Daniel C. Wiesner
Geoff Kirsner
Akilesh Shastri
Shira M. Bergman
QUINN EMANUEL URQUHART
& SULLIVAN, LLP
51 Madison Avenue, 22nd Floor
New York, New York 10010
(212) 849-7000

Attorneys for Plaintiffs
Axsome Therapeutics, Inc. and
Antecip Bioventures II LLC

/s/ Liza M. Walsh

Liza M. Walsh
Christine I. Gannon
Patrick S. Salamea
WALSH PIZZI O'REILLY FALANGA LLP
Three Gateway Center
100 Mulberry Street, 15th Floor
Newark, NJ 07102
Tel.: (973) 757-1100
lwalsh@walshlaw.com
cgannon@walshlaw.com

OF COUNSEL:

Elaine Herrmann Blais (*pro hac vice*)
Daryl L. Wiesen (*pro hac vice*)
Eric T. Romeo (*pro hac vice*)
GOODWIN PROCTER LLP
100 Northern Avenue
Boston, MA 02210
Tel.: (617) 570-1000
EBlais@goodwinlaw.com
DWiesen@goodwinlaw.com
ERomeo@goodwinlaw.com

Alexandra D. Valenti (*pro hac vice*)
Timothy J. Beavers (*pro hac vice*)
GOODWIN PROCTER LLP
The New York Times Building
620 8th Ave
New York, NY 10018
Tel.: (212) 813-8800
AValenti@goodwinlaw.com
TBeavers@goodwinlaw.com

Alison Siedor (*pro hac vice*)
GOODWIN PROCTER LLP
1900 N Street NW
Washington, DC 20036
Tel.: (202) 346-4000
ASiedor@goodwinlaw.com

Attorneys for Defendant
Teva Pharmaceuticals, Inc.